

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4098 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
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SB BHOJAK

Versus

DISTRICT DEVELOPMENT OFFICER, MEHSANA & OTHERS

Appearance:

MR RN SHAH for Petitioner
MR NN PANDYA for Respondent No. 1 and 2
MR GR UDWANI for Respondent No. 3, 4

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/07/96

ORAL JUDGEMENT

1. Heard learned counsel for the parties. It is not in dispute that the petitioner has been promoted to the post of Sr. Clerk under the order dated 29th September, 1967. Under the said order, the respondents no.3 and 4 have also been promoted to Aval Karkun. Serala Pay Commission recommended for different pay scales for the post of Aval Karkun and Senior Clerk. The pay scale of

Aval Karkoon was recommended to be higher than the pay scale of Senior clerk. This recommendation has been accepted by the Government. This recommendation has been made in the year 1969. The petitioner has made a grievance that he be treated as Aval Karkun from 29th September, 1967, but this grievance has been made by him after many years of the recommendation of the Serala Pay Commission. The seniority list has been published on 9-11-1971 in which the position has been shown as of 29th September, 1967. It was the final seniority list and then the seniority list has been published in the year 1977 and that has been challenged by the petitioner by filing an appeal to the tribunal. In that appeal, it appears that the relief was not granted to the petitioner. The petitioner was posted as Aval Karkun on 26th November, 1977, but his claim of Aval Karkun from 29th September, 1967 cannot be allowed. The petitioner has not made any grievance of his promotion to the post of Sr. Clerk or promotion of the respondents no.3 and 4 which had been made on 29th September, 1967. The petitioner allowed the respondents no.3 and 4 to take the benefits of Aval Karkun from 29th September, 1967 and after the settled position they prayed for treating them to be the promotee on the post of Aval karkoon. The promotion has been made on the post of Sr. clerk to that of Aval Karkun of the petitioner and that was taken to be the cause of action. The petitioner had acquiesced the action of the respondent of the year 1967 and he has not challenged the seniority list of the year 1971 also. His claim for giving him the deemed promotion to the post of Aval Karkun from 29th September, 1967 cannot be allowed now. This court will not undo the settled things now at this stage when the petitioner himself is responsible for delay and latches in claiming of his rights. The seniority list which has been challenged by the petitioner of the year 1977 is also not maintainable because the appeal filed by him against it was dismissed on 9th December, 1977 and this petition is filed by him in the year 1982. Taking into consideration the totality of the facts of this case, this Sp. Civil Application does not survive and the same is dismissed. Rule discharged.
